

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CASE NO.3: 23-cv- 00414

HALEEM GILLILAND,

Plaintiff,

v.

GARRY L. MCFADDEN, individually  
and in his official capacity as Sheriff of  
Mecklenburg County; PLATTE RIVER  
INSURANCE COMPANY, a  
corporation in its capacity as Surety on  
the official bond of the Sheriff of  
Mecklenburg County and KYLE  
GARRETT HARRIS, individually and  
in his official capacity as a Detention  
Officer of Mecklenburg County

Defendants

**ANSWER TO COMPLAINT**

Defendants Garry L. McFadden, individually and in his official capacity,  
Platte River Insurance Company, and Kyle Garrett Harris, in his official capacity  
only, respond to Plaintiff's Complaint as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Defendants lack sufficient knowledge or information to form a belief  
as to the truth of the allegations of this paragraph.
2. Defendants deny the allegations of this paragraph.

3. Defendants lack sufficient information regarding the allegations of this paragraph.

4. Defendants admit the allegations of this paragraph.

5. Defendants admit only that Sheriff McFadden has a surety bond and is a covered participant in a risk pool. Except as so admitted, Defendants deny the remaining allegations of this paragraph.

6. Defendants admit only that Platte River was the Sheriff's surety from May 15- May 20, 2021. Except as so admitted, Defendants deny the remaining allegations of this paragraph.

7. Defendants admit the allegations of this paragraph.

8. Defendants deny the allegations of this paragraph.

9. Defendants deny the allegations of this paragraph.

10. Defendants deny the allegations of this paragraph.

11. Defendants deny the allegations of this paragraph.

12. Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph.

13. Defendants admit only that Harris was employed by the Mecklenburg County Sheriff's Office ("MSCO") as a detention officer. Defendants lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of this paragraph.

14. Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph.

15. Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph.

16. Defendants deny the allegations of this paragraph.

17. Defendants deny the allegations of this paragraph.

18. Defendants deny the allegations of this paragraph.

19. Defendants deny the allegations of this paragraph.

20. Defendants deny the allegations of this paragraph.

### **FACTS**

21. No response is necessary for this paragraph.

22. Defendants admit only that Plaintiff is a biological male. Except as so admitted, Defendants lack sufficient knowledge or information to form a belief about the remaining allegations of this this paragraph

23. Defendants deny the allegations of this paragraph.

24. Defendants admit only that Plaintiff was placed in single cell confinement on May 15, 2021, for violating jail policies. Except as so admitted, Defendants lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of this paragraph.

25. Defendants admit the allegations of this paragraph.

26. Defendants admit only that Plaintiff was showering, and supposed to be alone. Defendants further admit that Rajai Strickland entered the shower with Plaintiff's consent. Except as so admitted, Defendants lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of this paragraph.

27. Defendants admit only that Plaintiff and Strickland were placed in single cell confinement. Except as so admitted, Defendants deny the remaining allegations of this paragraph.

28. Defendants deny the allegations of this paragraph.

29. Defendants admit the allegations of this paragraph.

30. Defendants deny the allegations of this paragraph.

31. Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph.

32. Defendants admit the allegations of this paragraph.

33. Defendants admit the allegations of this paragraph.

34. Defendants lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of this paragraph.

35. Defendants admit the allegations of this paragraph.

36. Defendants admit the allegations of this paragraph.

37. Defendants admit the allegations of this paragraph.

38. Defendants deny the allegations of this paragraph.

**FIRST CAUSE OF ACTION**

**GROSS NEGLIGENCE OF DEFENDANT**

39. No response is necessary for this paragraph.

40. Defendants deny the allegations of this paragraph.

41. Defendants deny the allegations of this paragraph.

42. Defendants deny the allegations of this paragraph and subparagraphs.

43. Defendants deny the allegations of this paragraph.

44. Defendants deny the allegations of this paragraph.

45. Defendants deny the allegations of this paragraph.

**SECOND CAUSE OF ACTION**

**42 USC § 1983 LIABILITY OF DEFENDANTS IN THEIR INDIVIDUAL CAPACITIES**

46. No response is necessary for this paragraph.

47. Defendants deny the allegations of this paragraph.

48. Defendants admit only that the due process of the Fourteenth Amendment applies to pretrial detainees like Plaintiff. Except as so admitted, Defendants deny the remaining allegations of this paragraph.

49. Defendants deny the allegations of this paragraph.

50. Defendants admit only that the Prison Rape Elimination Act requires MCSO to adopt standards to prevent, detect, and respond to sexual abuse of

residents, and that MCSO has adopted such standards. Except as so admitted, Defendants lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of this paragraph.

51. Defendants deny the allegations of this paragraph.

52. Defendants deny the allegations of this paragraph.

53. Defendants deny the allegations of this paragraph.

54. Defendants deny the allegations of this paragraph.

55. Defendants deny the allegations of this paragraph.

56. Defendants deny the allegations of this paragraph.

### **FIRST AFFIRMATIVE DEFENSE**

Garry McFadden, in his individual capacity, is entitled to qualified immunity for the 42 U.S.C. § 1983 claim against him.

### **SECOND AFFIRMATIVE DEFENSE**

Garry McFadden in his official capacity and Kyle Harris in his official capacity are entitled to governmental immunity for the gross negligence claim against them.

### **THIRD AFFIRMATIVE DEFENSE**

Garry McFadden in his individual capacity is entitled to public official immunity for the gross negligence claim against him.

#### **FOURTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to exhaust his remedies under the Prison Litigation Reform Act.

WHEREFORE, Defendants request that the Plaintiff take nothing by way of his Complaint, for trial by jury, and for any other relief deemed appropriate by the Court.

This 18<sup>th</sup> day of July 2023.

s/Sean F. Perrin

Womble Bond Dickinson (US) LLP  
301 S. College Street, Ste. 3500  
Charlotte, North Carolina 28202  
Telephone: 704-331-4992  
Facsimile: 704-338-7814  
[Sean.Perrin@wbd-us.com](mailto:Sean.Perrin@wbd-us.com)

*Attorney for Defendants Garry McFadden in  
his official and individual capacity, Kyle  
Harris in his official capacity only, and  
Platte River Insurance Company*

/s/ Marilyn Porter

N.C. State Bar No. 8859  
[Marilyn.porter@mecklenburgcountync.gov](mailto:Marilyn.porter@mecklenburgcountync.gov)

/s/ J. George Guise

N.C. State Bar. No. 22090  
[George.guise@mecklenburgcountync.gov](mailto:George.guise@mecklenburgcountync.gov)  
Mecklenburg County Sheriff's Office  
801 East Fourth St.  
Charlotte, NC 28202  
Telephone: 704- 336-8100  
[George.Guise@mecklenburgcountync.gov](mailto:George.Guise@mecklenburgcountync.gov)

*Attorneys for Defendants Garry McFadden  
in his official and individual capacity, and  
Kyle Harris in his official capacity only.*



## **CERTIFICATE OF SERVICE**

I hereby certify that on this 18<sup>th</sup> day of July, 2023, a copy of the foregoing was filed via CM/ ECF and a copy was sent via U.S. Mail to the following non CM/ ECF participant:

Kyle Garrett Harris  
Inmate # 1693707  
Warren Correctional Institution  
Post Office Box 728  
Norlina, NC 27563

s/Sean F. Perrin